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November 12, 2009

BY ECF AND FACSIMILE

Honorable Michael A. Shipp
United States Magistrate Judge
for the District of New Jersey
Martin Luther King Building & U.S. Courthouse
50 Walnut Street, Courtroom MLK 2C
Newark, New Jersey 07101

**Re: *Joseph C. Weber v. Atlantic Zeiser/Orell Fussli*,
No. 08-CV-0977 (DRD) (MAS)**

Dear Judge Shipp:

As Your Honor is aware, we represent Plaintiff Joseph C. Weber ("Plaintiff" or "Mr. Weber") in the above-referenced action. We write to respectfully request the Court's intervention in connection with Defendant's refusal to produce Michael Raimondo for his duly-noticed deposition that is scheduled to take place tomorrow, November 13, 2009. The deadline for completion of discovery in this case is November 14, 2009.

Raimondo, Defendant's CFO and Controller, was previously deposed as a fact witness based on his direct personal involvement and participation in the events giving rise to this litigation. After Raimondo's initial day of deposition testimony, Defendant designated Raimondo as a purported Expert Witness, pursuant to Rule 26(b)(2)(B). Defendant has also produced relevant documents that it had failed to timely produce in advance of Raimondo's initial day of deposition testimony. Accordingly, Plaintiff served notice for the continuation of Raimondo's deposition to take place on November 6, 2009 in connection with: (i) documents that Defendant failed to timely produce in advance of Raimondo's initial day of deposition testimony; and (ii) Raimondo's purported "expert report" pursuant to Rule 26(b)(2)(B).

Defendant's counsel thereafter advised that, although Raimondo would not be available to testify on November 6, 2009, he would be available to testify on November 13, 2009.

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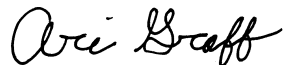
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Accordingly, Plaintiff duly served an amended deposition notice for Raimondo's deposition to take place on November 13, 2009. However, Defendant's counsel informed us this afternoon that Defendant will not produce Raimondo for his deposition until the week of November 23, 2009, well beyond the deadline for completion of all discovery.

Moreover, Defendant submitted a letter to the Court this afternoon requesting an extension of discovery through this Monday, November 16, 2009 – to accommodate the deposition of a non-party witness that Defendant had subpoenaed for that date – but failed to request an extension of discovery in connection with its refusal to produce Raimondo for his duly-noticed deposition tomorrow, or at any time prior to the week of November 23, 2009.

Accordingly, we respectfully request that Defendant be ordered to produce Raimondo for his duly-noticed deposition tomorrow, November 13, 2009.

Respectfully submitted,



Ariel Y. Graff

cc: Scott B. Gilly, Esq.
James Scott Murphy, Esq.
Peter Cipparulo, III, Esq.